

Notice of Allowability

Application No.

10/780,321

Examiner

DiBrino Marianne

Applicant(s)

BUELOW ET AL.

Art Unit

1644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 2/27/07.
2. ☒ The allowed claim(s) is/are 1, 3-8, 12, 14, 15, 19-21 and 29-31.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>attached hereto</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

DETAILED ACTION

1. Applicant's amendment filed 7/5/06 is acknowledged and has been entered.

Claims 1-8, 11-15, 18-21 and 29-31 are pending.

2. The provisional provisional double patenting rejection of record over copending USSN 10/376,647 has been withdrawn since said USSN was abandoned on 11/20/06 after the 8/28/06 mailing date of the last Office Action.

EXAMINER'S AMENDMENT

3. An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this Examiner's Amendment was given by Mr. Todd Lorenz in telephonic communications on 3/13/07 and on 3/22/07.

4. **In the claims:**

- Claims 2, 11, 13 and 18 have been deleted.
- A period --.—has been added at the end of each claim, *i.e.*, at the end of claims 1-8, 11-15, 18-21 and 29-31.
- In claim 1, "(SEQ ID NO: 13)" has been deleted and replaced with ---, wherein one or more of the amino acids of said oligopeptide, other than glycine, are optionally D isomers, and wherein the amino acid residue at at least one terminus of said oligopeptide is optionally modified.— .
- In claim 7, the --, wherein the amino acid residue at at least one terminus of said oligopeptide is optionally modified—has been added after "-NH₂".
- In claim 29, "Claims 1-8 or 11-15 or 18-21" has been deleted and replaced with -- claims 1, 3-8, 12, 14, 15 or 19-21---.
- In claims 4-6, 8, 12, 14, 15, 19-21, 30 and 31, the upper case "C" in "Claim" has been deleted and replaced with a lower case "c".
- In claim 3, "Claim 2" has been deleted and replaced with ---claim 1---.

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In the specification:

- The first sentence of the specification has been amended to add ----now U.S. Patent No. 6,696,545--- after "1998," and before "which is" at line 2, and ----, now abandoned--- has been added after, "1997" and before the "." At line 3.

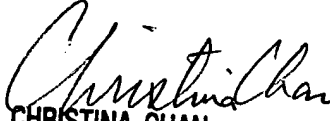
REASONS FOR ALLOWANCE

5. The following is an examiner's statement of reasons for allowance:

- a. Claims 1, 3-8, 12, 14, 15, 19-21 and 29-31 are pending and are allowable.
- b. The terminal disclaimer filed 10/11/05 over U.S. Patent Serial No. 6,696,545 is acceptable as enunciated in the Office Action mailed 5/4/06.
- c. The claimed oligopeptide having the sequence of SEQ ID NO: 13 and pharmaceutical composition thereof is not taught or suggested by the prior art.
- d. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

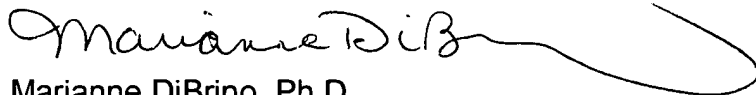
6. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Marianne DiBrino whose telephone number is 571-272-0842. The Examiner can normally be reached on Monday, Tuesday, Thursday and Friday.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Christina Y. Chan, can be reached on 571-272-0841. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



CHRISTINA CHAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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March 22, 2007



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